

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Digital Audio Broadcasting Systems)	
and their Impact on the)	
Terrestrial Radio Broadcast Service)	MM Docket No. 99-325
Impact upon Existing Television)	
Broadcast Service)	
)	
)	
)	
)	

To: The Commission
ELECTRONICALLY SUBMITTED

MOTION TO ACCEPT
LATE-FILED COMMENTS
AND NOTICE OF WRITTEN EX PARTE PRESENTATION

Bible Broadcasting Network, Inc. (“BBN”) respectfully seeks leave to file in this docket and to be considered as Comments a copy of “Comments of Bible Broadcasting Network, Inc., on Report on Broadcast Localism and Notice of Proposed Rulemaking” that is being filed today in MB Docket No. 04-233 (“Broadcast Localism Proceeding NPRM”).¹

¹ This pleading also serves as Notice of BBN’s written *ex parte* presentation in this docket since BBN’s Comments cover subjects under consideration in this docket as well as MB Docket 04-233.

Until the Broadcast Localism Proceeding NPRM was reviewed (particularly ¶¶28 and 29)², it was unclear that the Commission was intending to make a critical decision on the issue of remote operation of radio stations on the basis of the record developed in this docket as the result of a passing reference. Paragraph 119 of the *Second Report and Order; First Order on Reconsideration and Second Further Notice of Proposed Rulemaking In the Matter of Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service*, 22 FCC Rcd 10344 (2007) cryptically provides:

In connection with our review of public interest requirements for DAB, we seek comment on whether it is appropriate to review the rules that have facilitated the development of automated broadcast operations. Is there any reason that, in light of recent industry experience, the Commission should revisit its determination that stations may reliably and confidently use unattended and remotely controlled technical operations without jeopardizing the technical integrity of the radio service? Have changes in remote operation impacted the requirements that the Commission should adopt in this area?

A paragraph which appears to be limited to DAB services and which clearly requires the answer that there is no reason to “revisit its determination that stations may reliably and confidently use unattended and remotely controlled technical operations,” could hardly give notice that the

² “Recently, the Commission issued a Notice of Proposed Rulemaking regarding this issue, in connection with a public interest review of digital audio broadcasting. The Commission asked whether it should review its rules and determinations that facilitated the development of the automated radio broadcast operations described above. It also asked whether changes in remote radio operation should affect existing rules. Comments are still being received in that proceeding. We are considering requiring that licensees maintain a physical presence at each radio broadcasting facility during all hours of operation.”

Commission was planning to propose in MB Docket No. 04-233 a requirement to staff stations whenever they are on the air. Since its Broadcast Localism NPRM reveals that this is the Commission's intent, BBN's Comments should be considered in this docket in opposition to such a draconian proposal.

Waivers of the comment and reply deadlines have been waived in, e.g., the advanced television proceeding. See *Advanced Television Systems And Their Impact Upon The Existing Television Broadcast Service*, Seventh Report And Order And Eighth Further Notice Of Proposed Rule Making, 22 FCC Rcd 15581 (2007) at fn 404, and Memorandum Opinion and Order On Reconsideration of The Seventh Report and Order and Eighth Report and Order, FCC 08-72, released March 6, 2008 at ¶ 151.

Accordingly, BBN hereby requests a waiver of §§1.415(b) and (d) of the Commission's Rules to permit the filing of its "Comments."

As in the advanced television proceeding, the public interest will be served by acceptance and consideration of BBN's Comments.

Also, given that the nature of the material submitted could have a direct bearing on the service BBN provides to the listeners of its radio stations nationwide, the public interest indicates that the information submitted be accepted and considered in this proceeding.

In view of the foregoing, it is respectfully requested that the Commission waive §§1.415(b) and (d) of its rules, to accept and consider the

“Comments of BBN Communications, Inc., on Report on Broadcast Localism and Notice of Proposed Rulemaking” submitted contemporaneously herewith.

Respectfully submitted,

BIBLE BROADCASTING NETWORK, INC.

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April 28, 2008